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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Webb et al.

Serial No.: 10/633,611

Examiner: Agarwal, Ritesh

Filing Date: July 31, 2003

Group Art Unit: 1631

Title: Chemical Arrays with Test Dependent Signal Reading or Processing

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ☒ Response/Amendment ☐ Petition to extend time to respond  
☐ New fee as calculated below ☐ Supplemental Declaration  
☐ No additional fee (Address envelope to "Mail Stop Amendments")  
☐ Other: (Fee \$\_\_\_\_\_)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 <sup>ST</sup> MONTH 120.00 <input type="checkbox"/>	2 <sup>ND</sup> MONTH 450.00 <input type="checkbox"/>	3 <sup>RD</sup> MONTH 1020.00 <input type="checkbox"/>	4 <sup>TH</sup> MONTH 1590.00 <input type="checkbox"/>		\$ 0
OTHER FEES						\$ 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.2 5. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Webb et al.

By

Alan Cannon for John Brady  
Attorney/Agent for Applicant(s)

I hereby certify that this correspondence is being Deposited with the United States Postal Service as First class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: 5/18/07

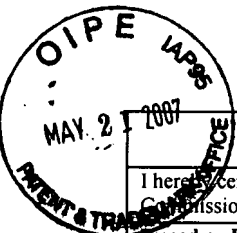
Typed Name: Maria J. Sousa

Signature:

Reg. No. 34,977

Date: 5/18/07

Telephone No. (408) 736-3554



<b>CERTIFICATE OF MAILING</b>			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or Printed Name	Maria J. Sousa		
Signature	<i>Maria J. Sousa</i>	Date	5/18/07

<b>RESPONSE TO RESTRICTION REQUIREMENT AND NOTICE OF NON-RESPONSIVE ELECTION</b>  Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket Confirmation No.	10021295-1 5564
	First Named Inventor	Webb
	Application Number	10/633,611
	Filing Date	07/31/2003
	Group Art Unit	1631
	Examiner Name	Agrawal, Ritesh
	Title	Chemical Array with Test-Dependent Signal Reading or Processing

Sir:

This is in response to the Office Communication dated 04/24/2007 for which a one-month period for response was given making this response due on or before May 24, 2007, and to the Restriction Requirement dated 1/18/2007.

**THE OFFICE COMMUNICATION**

In the Office Communication dated 04/24/2007, the Examiner indicated that Applicants' response filed 2/6/07 is not responsive to the Restriction Requirement mailed on 1/18/07, since the Restriction Requirement required an election of a member from species A, as well as an election of a member from species B, not an election of species A or B. Accordingly, the Examiner set a one-month time period in which to file a fully responsive election.

**THE RESTRICTION REQUIREMENT**

In the Official Action dated January 18, 2007, the Examiner required an election of one species from each group of Species A and B as follows:

- "Species A" – elect one test request among those recited, for example, in claim 57; and
- "Species B" – elect one condition among those recited, for example in claim 58.

The Examiner indicated that claims 1, 5-7, 10-13, 41-56 and 59-60 are generic.

**RESPONSE**

In response to the restriction requirement, Applicants elect “tests for expression levels or one or more genes or a class of genes”, claims 1, 5-7, 10-13, 41-57 and 59-60; and “a disease”, claims 1, 5-7, 10-13, 41-56 and 58-60, with traverse. Applicants respectfully submit that claims 57 and 58 are drafted in Markush format, and therefore if the Examiner finds only one member of the Markush group in a claim, that claim can be rejected upon the finding of that one member. Accordingly, Applicants respectfully submit that the restriction requirement was unnecessary.

**Conclusion**

Applicants respectfully submit that a proper response has been made to the Restriction Requirement., and that all of the claims in this application are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

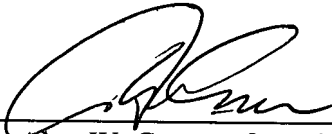
The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10021295-1.

Respectfully submitted,

Date: \_\_\_\_\_

5/18/07

By: \_\_\_\_\_



Alan W. Cannon for John Brady  
Registration No. 34,977

John Brady  
Agilent Technologies, Inc.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599  
Telephone: (408) 553-3584  
Facsimile: (408) 553-2365